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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,045	03/30/2001	Herve Buzot	PPC-783	8980

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EXAMINER

SALVATORE, LYNDIA

ART UNIT	PAPER NUMBER
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1771

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DATE MAILED: 12/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/823,045

Applicant(s)

BUZOT, HERVE

Examiner

Lynda M Salvatore

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 10 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,4,6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s): _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 20 is objected to because of the following informalities: Claim 20 is missing a period at the end of the sentence. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 7, 9, 10 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claims 7 and 9 are indefinite because it is unclear to the Examiner what the Applicant means by "multi-limbed". Is the Applicant referring to the lobal cross section of the fiber?

5. Claim 10 recites the limitation "wherein said fiber" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim. Claim 2 recites "fibrous material". As such, it is unclear to the Examiner if the "fibrous material" or the "fiber" is compressed.

6. Claim 24 is indefinite because it is unclear to the Examiner what the Applicant means by "ring capable of maintaining said lower portion into an *open position*".

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8 Claims 1,2,5,13, 21-25 and 29 are rejected under 35 U.S.C. 102 (b) as being anticipated by Davis et al., US 3,791,385.

The patent issued to Davis et al., teaches a catamenial device comprising a collapsible shell having a perforated upper portion and a non-perforated impervious lower portion. The shell chamber is filled with an absorbent filling material (Abstract). The pliable shell chamber is made from rubber or plastic substitute therefore which is deformably pliable and adapted to return to original dimensions after prolonged collapse (Column 4, 14-15, 27-28). The upper and lower halves of the shell are permanently joined at the intermediated seal, which consists of a plurality of encompassing ribs that extend outwardly and upwardly to circumferentially continuous lips (Column 4, 19-22 and 58-65). The absorbent filling material can include cellulose sponge or a collection of spaced fibers (Column 5, 4-10). With specific regard to claim 5, the teaching to the use of spaced fibers meets the broad limitation of "bondable" fibers since any fiber is inherently "able" to bond either with a binding agent or the application of heat. The lower portion further comprises a withdrawal mechanism in the form of a lanyard (Column 5, 34-40).

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Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al., US 3,791,385, as applied to claims 1 and 2 above, and further in view of Balzar, US 5,827,256.

Davis et al., fails to teach a compressed absorbent fibrous core, however, the patent issued to Balzar is directed to a tampon comprising a compressed absorbent fiber pledget (Abstract) Surrounding the pledget is a covering material such as perforated or non-perforated non-woven, from a thermoplastic film, which has been perforated to make it liquid-permeable (Column 3, 66-Column 4, 3 and Column 6, 36-40)

Therefore, motivated by the desire to provide a compact absorbent tampon it would have been obvious at the time the invention was made to use a compressed absorbent pledget such as the one disclosed by Balzar in the catamenial device of Davis et al

11. Claims 3, 14-19, and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al., US 3,791,385 as applied to claim 1 above, and further in view of Olsen, US 5,688,257

With respect to claim 3, Davis et al., fails to teach using a binding agent in the absorbent fibrous material, however, Olsen et al., teaches that suitable absorbent materials include cellulose

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fibers such as rayon or cotton and may further include a small amount of thermoplastic binding fibers to provide stability (Column 2, 32-40).

Therefore, motivated to provide stability to the fibrous absorbent material, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the thermoplastic binding fibers taught by Olsen in the absorbent filler material of Davis et al.

With respect to claims 14-17 and 26-28, Davis et al. fails to teach using a non-woven material as the outer shell casing, however, the patent issued to Olsen teaches a tampon comprising an absorbent body encased in a fluid permeable thermoplastic non-woven material.

Therefore, motivated to enhance comfort it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the thermoplastic non-woven materials taught by Olsen as the outer casing shell in the invention of Davis et al.

As to claims 16 and 27, Olsen further teaches preventing leakage by heat-sealing at least a portion of the central or end portion of the thermoplastic material to form a fluid impervious film (Abstract). As to claims 15, 17 and 28 preferably the casing material is a thermoplastic non-woven material, however, a perforated plastic film or thermoplastic net formed from polyethylene or polypropylene are also suitable (Column 2, 1-10).

Therefore, motivated to increase absorbency in the upper portion, it would have been obvious to one having ordinary skill in the art to use the perforated plastic film or thermoplastic net taught by Olsen as the outer shell casing material of the Davis et al. device

Additionally, motivated by the desire to prevent leakage in the lower portion, it would also be obvious to one having ordinary skill in the art to heat seal the lower portion of the

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thermoplastic material outer shell casing material of Davis et al., to form a fluid impervious film as taught by Olsen.

As to claim 18, the tampon would inherently have a bottom portion and a sidewall when the central or end portion is heat-sealed to form a fluid impervious film.

With respect to claim 19, Olsen et al., teaches securing a withdrawal string to the absorbent body. As such, it is presumable that the bottom portion comprising the withdrawal string would inherently be thicker than a sidewall portion.

12. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al., US 3,791,385 as applied to claim 1 above and further in view of Schaefer, US 3,815,601.

Davis fails to teach using compressed tablets, however, the patent issued to Schaefer teaches a tampon comprising a resilient absorbent foam aggregate encased in an overwrap (Abstract). Schaefer further teaches distributing ancillary absorbent material within the foam aggregate (Column 5, 9-15). Suitable ancillary materials include pellets, rods, bars and individual fibers of cellulose (Column 5, 35-50 and Figure 9). Suitable overwrap materials include soft, flexible, fluid permeable non-woven fabrics (Column 12, 10-17).

Therefore, motivated increase absorption capacity, containment, and rates it would have been obvious to one having ordinary skill in the art at the time the invention was made to distribute ancillary absorbent materials such as pellets, rods, and bars as taught by Schaefer in the absorbent filling material of Davis et al.

13. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al., US 3,791,385 as applied to claim 5 above, in view of Martens et al., WO 97/23248.

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Davis et al., lacks an explicit teaching to the specific type of fiber used, however, the published PCT application to Martens et al., teaches improving the absorption capacity of absorbent articles with a mixture of non-limbed and multi-limbed regenerated cellulosic fibers (Page 2, 6-13).

Therefore, motivated to improve the absorption capacity of the feminine hygiene product, it would have been obvious to one having ordinary skill in the art at the time the invention was made to fill the shell casing of the Davis et al., catamenial device with the mixture of non-limbed and multi-limbed regenerated cellulosic fibers of Martens et al.

14. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al., US 3,791,385 in view of Olsen, US 5,688,257 as applied to claim 3 above, and further in view of Koyo Co. Ltd, Derwent Japanese Abstract JP 07-070896A.

Davis et al., and Olsen fail to teach using a water-soluble binding agent, however, the Japanese abstract to Koyo Co. Ltd teaches adding incorporating a water dispersible binding agent into short biodegradable thermoplastic fibers (Abstract) Koyo Co. Ltd, further teaches that in the presence of cold water the water dispersible binding agent promotes the dispersion of the non-woven (Abstract). Thus, when the non-woven is flushed the fabric does not block plumbing (Abstract).

Therefore, motivated by the desire to produce a catamenial device, which can be flushed away, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the water-soluble binding agent taught by Koyo Co. Ltd. for the thermoplastic binding fibers of Olsen, in the catamenial device taught by Olsen and Davis et al.

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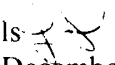
Conclusion


15 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 703-305-4070.

The examiner can normally be reached on M-F

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661

ls: 
December 16, 2002


CHIEF OF EXAMINER
PRIOR ART